

2005 DRAFTING REQUEST

Bill

Received: **02/22/2005**

Received By: **csundber**

Wanted: **As time permits**

Identical to LRB:

For: **Ted Kanavas (608) 266-9174**

By/Representing: **Mike Richards**

This file may be shown to any legislator: **NO**

Drafter: **csundber**

May Contact:

Addl. Drafters:

Subject: **Trade Regulation - electron com**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Kanavas@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Disclosure of data security breaches

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	csundber 03/10/2005	jdyer 03/14/2005	pgreensl 03/15/2005	_____	sbasford 03/15/2005		
	csundber 03/16/2005	jdyer 03/21/2005		_____			
/1			jfrantze 03/21/2005	_____	mbarman 03/21/2005	sbasford 04/06/2005	S&L

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/P1	csundber 03/10/2005	jdyer 03/14/2005	pgreensl 03/15/2005	_____	sbasford 03/15/2005		

FE Sent For:

1 3/21 ju 3/21 Pg
<END>

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/P1	csundber	PI 3/14 JLD	3/15 P8	3/15 P8			

FE Sent For:

<END>

Sundberg, Christopher

From: Dsida, Michael
Sent: Tuesday, February 22, 2005 9:35 AM
To: Richards, Mike
Cc: Kuesel, Jeffery; Sundberg, Christopher
Subject: RE: Drafting Request

Mike-

I am forwarding your request to Jeff Kuesel (who drafts bills relating to state government operations generally) and Chris Sundberg (who drafts in the area of business and trade regulation) in our office. This bill appears to fall within their drafting areas.

Mike Dsida
Legislative Reference Bureau
608/266-9867
michael.dsida@legis.state.wi.us

-----Original Message-----

From: Richards, Mike
Sent: Tuesday, February 22, 2005 8:22 AM
To: Dsida, Michael
Subject: Drafting Request

Michael,

Could we get this drafted?

Thanks,

Mike Richards
Aide to Senator Ted Kanavas

-----Original Message-----

From: Schmidt, Dan
Sent: Monday, February 21, 2005 4:26 PM
To: Richards, Mike
Subject:

Mike:

The California AG ID Theft website: <http://caag.state.ca.us/idtheft/>

The California law that requires notice: http://leginfo.ca.gov/pub/01-02/bill/sen/sb_1351-1400/sb_1386_bill_20020926_chaptered.html

Here is the NCSL summary of the enacted bill:

S.B. 1386

Requires a state agency, or a person or business that conducts business in California, that owns or licenses computerized data that includes personal information, as defined, to disclose in specified ways, any breach of the security of the data, as defined, to any resident of California whose unencrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person. Permits the notifications required by its provisions to be delayed if a law enforcement agency determines that it would impede a criminal investigation. Requires an agency, person, or business that maintains computerized data that includes personal information owned by another to notify the owner or licensee of the information of any breach of security of the data, as specified. States the intent of the Legislature to preempt all local regulation of the subject matter of the bill. Makes a statement of legislative findings and declarations regarding privacy

and financial security.

Here is a list (via NCSL) of each states' id theft statutes:

<http://www.ncsl.org/programs/lis/privacy/idt-statutes.htm>

Apparently, Massachusetts has introduced a similar bill in the past (HB 2921), but I can't get it because their website does not allow one to access past bills (only current). Let me know if you have any other questions.

Dan Schmidt
Senior Analyst
Wisconsin Legislative Council Staff
P.O. Box 2536
Madison, WI 53701-2536
Ph:(608) 267-7251
Fax:(608) 266-3830
Emx: dan.schmidt@legis.state.wi.us

Sundberg, Christopher

From: Richards, Mike
Sent: Friday, February 25, 2005 9:46 AM
To: Sundberg, Christopher
Subject: ID Theft Bill

Chris,

Thank you for being patient through this draft. I know that I have been steering you back and forth, but I appreciate your work.

As I mentioned on the phone to you, we would like to work of the currently drafted LRB 1134/1, which has been I believe requested by Staskunas. Below are some requested changes to the bill that we would like to see:

- We would like the company to contact the consumer if either unencrypted OR encrypted personal identifying information has been obtained. Staskunas' draft only say unencrypted. Our theory is, if some has made encryption software, the means someone else can do it too, and therefore the information could be hacked.
- ✓ ○ On page two of LRB 1134/1 (2) Required notice, it talks about an entity and their knowing that the unauthorized USE of the data. Data may not be used at that moment by the criminal, we want it to say that if there has been a breach that they need to make reasonable efforts to notify.
- Now, we want to also clarify that if a person's name or address is taken they do not need to notify. Only when a person's name is accompanied by all others under 943.201 (1) except for address and phone number. I think that we want to keep email address included in this draft for fear of spam (this may already be covered under the Can Spam Act at the federal level).
- The draft does not make any specifics as to who may be required to notify. We would like to put a provision in the bill that requires a company who does business in the state of Wisconsin (including on-line banking) needs to notify all Wisconsin residents. If the company is headquartered in Wisconsin, or the data is stored in Wisconsin and there is a breach, they need to notify everyone.
- We also want to make sure that a governmental entity should be in here as well. For example, if the DOR or any licensing agency gets hacked they need to notify as well. I believe, this should include the local units of government.
- ✓ If a company has found that they have been hacked, they need to inform the AG in this state within a reasonable timeline. The Wisconsin Department of Ag, Trade and Consumer Protection is then tasked with posting a notice. Our theory is that if a person's information has been hacked, the hacker may have already changed the person's address, and therefore any correspondence from the company may in turn be sent to the actual hacker. This provides an outlet for those people who may be hacked so that they find out through public notice.
- We may, at some point, want to have a provision in the bill that makes for an automatic credit freeze at the companies expense, but we will hold off on that for now.
- ✓ • Also, what is the affect on the business if they do not report? Do we have anything like that under the current draft?

Thanks Chris.

MICHAEL D. RICHARDS
Office of State Senator Ted Kanavas
33rd Senate District
(608) 266-9174
Mike.Richards@legis.state.wi.us

3/3/05

2214 — mty w Kanavas aide
and Fitzgerald aide

1. Notice method:

1. mail or any means by an
established means of commun.
between entity + subject

2. If not 1., any means reasonably
calc'd to provide actual notice to
consumer.

2. No req't to notify AG or DATCP.

3. Question: Does Patriot Act require
similar notification of breach of
data security?

2214/P1

LRB-11477

MJH:cmh:rs

CTB

↑ JLD

SOON

2005 BILL

Prelim. Draft

1/1:3/10/05

Snote

Regen acquisition ✓

1 AN ACT to create 895.507 of the statutes; relating to: notice regarding
2 unauthorized use of personal information.

anal:
prelim

Analysis by the Legislative Reference Bureau

This bill requires a business (or other corporate entity) that knows of the unauthorized use of unencrypted personal identifying information that was obtained from the business to make reasonable efforts to notify the individual whose personal identifying information was used. Generally, a business must notify the individual within 30 days after the business learns of the unauthorized use.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 SECTION 1. 895.507 of the statutes is created to read:

4 895.507 Notice of unauthorized use of personal identifying
5 information. (1) DEFINITIONS. In this section:

6 (a) "Entity" means a person, other than an individual, that in the ordinary

7 course of business maintains personal identifying information.

does any of
the following:

INS 1-7

BILL

SECTION 1

(b) "Personal identifying information" has the meaning given in s. 943.201 (1) but does not include publicly available information.

"Publicly available information" means any information that an entity reasonably believes is one of the following:

1. Information that is lawfully made widely available through any media,
2. Information that is lawfully made available to the general public from federal, state, or local government records or disclosures to the general public that are required to be made by federal, state, or local law.

(2) (a) If an entity knows of the unauthorized use of unencrypted personal identifying information that was obtained from the entity while in the entity's possession, it shall make reasonable efforts to notify each individual who is the subject of the personal identifying information. The notice shall indicate that the entity knows of the unauthorized use of personal identifying information relating to the individual.

(b) 1. The entity shall provide the notice under par. (a) in a manner and, subject to sub. (4), within a time that is reasonable, taking into consideration the number of notices that it must provide and the methods of communication available to the entity.

2. Notwithstanding subd. 1., the entity shall provide any notice required under par. (a) within 30 days after the entity learns of the unauthorized use of the personal identifying information or, if sub. (4) applies, within 30 days after the end of the time period specified by a law enforcement agency under that subsection.

(c) Notwithstanding pars. (a) and (b), an entity is not required to provide notice to an individual of the unauthorized use of personal identifying information relating to that individual if the entity learns of the unauthorized use from that individual.

whose principal place of business is located in this state or an entity that stores personal information in this state

that

INS 2-11

pertaining

NS 2-15

BILL

①

2

3

④

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8

(4) ← (3)

EFFECT ON CIVIL CLAIMS. Compliance with this section is not a defense to a claim in a civil action or proceeding. Failure to comply with this section does not constitute negligence or a breach of any duty as a matter of law.

(5) ← (4) ← (3)

REQUEST BY LAW ENFORCEMENT NOT TO NOTIFY. If a law enforcement agency asks an entity not to provide a notice that is otherwise required under sub. (2) for any period of time, the notification process required under sub. (2) shall begin at the end of that time period.

(END)

d-note
↓

**2005-2006 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2214/P1ins
CTS:.....

Insert 1-7:

- 1 **Insert 1-7:**
- 2 ~~4~~ ^a ~~3~~. Conducts business in this state and maintains personal information in the
- 3 ordinary course of business.
- 4 ~~4~~ ^b ~~3~~. Stores personal information in this state.
- 5 ~~4~~ ^c ~~3~~. Maintains for a resident of this state a depository account as defined in s.
- 6 815.18 (2) (e).[✓]
- 7 ~~4~~ ^d ~~3~~. Lends money to a resident of this state.

Insert 2-1:

8 **Insert 2-1:**

9 ~~4~~ ² (b) "Entity" includes all of the following:

10 ~~4~~ ^a ~~3~~. The state and any office, department, independent agency, authority,

11 institution, association, society, or other body in state government created or

12 authorized to be created by the constitution or any law, including the legislature and

13 the courts.

14 ~~4~~ ^b ~~3~~. A city, village, town, or county.

15 ~~4~~ ^c ~~3~~ (b) Except as provided in par. (a), "personal information" means any of the

16 following information, if the information is accompanied by the name of the

17 individual to whom the information pertains and is not[✓] publicly available:

18 1. An individual's electronic mail address.

19 2. Any of the information specified in s. 943.201 (1) (b) 4. to 15.[✓]

Insert 2-11

20 **Insert 2-11**

21 ~~4~~ ²⁰ has been obtained by a person whom the entity has not authorized to obtain the

22 personal information, the entity

Insert 2-15:

↙

(b) If an entity whose principal place of business is not located in this state knows that personal information pertaining to a resident of this state has been obtained by a person whom the entity has not authorized to obtain the personal information, the entity shall make reasonable efforts to notify each resident of this state who is the subject of the personal information. The notices shall indicate that the entity knows of the unauthorized use of personal information pertaining to the individual.

(c) Notwithstanding pars. (a) and (b), an entity is not required to provide notice to an individual of the unauthorized use of personal information relating to that individual if the entity learns of the unauthorized use from that individual.

(3) TIMING AND MANNER OF NOTICE. (a) Subject to sub. (5), an entity shall provide the notice required under sub. (2) within a reasonable time, not to exceed 30 days after the entity learns of the acquisition of personal information. A determination as to reasonableness under this paragraph shall include consideration of the number of notices that an entity must provide and the methods of communication available to the entity.

(b) An entity shall provide the notice required under sub. (2) by mail or by a method the entity has previously employed to communicate with the subject of the computerized personal information. If an entity cannot with reasonable diligence determine the mailing address of the subject of the personal information, and if the entity has not previously communicated with the subject of the personal information, the entity shall provide notice by a method reasonably calculated to provide actual notice to the subject of the personal information.

~~§~~ (end ins
2-15)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2214/P1dn

CTS:A:....

Jld

Senator Kanavas:

✓
This draft is based on LRB-1134, and includes revisions based on instructions received from your aide, Michael Richards. Please review it carefully to ensure it is consistent with your intent.

✓
This draft retains a provision from LRB-1134 to the effect that noncompliance with the notice requirements does not constitute negligence or a breach of any legal duty. Presumably, this means that an entity's noncompliance does not necessarily amount to negligence or another basis for civil liability, but that noncompliance may be evidence of negligence or another basis for civil liability. Is this your intent?

SA I was unable to determine whether the Patriot Act requires financial institutions to disclose breaches of the security of personal information. My research indicates that under the federal Bank Secrecy Act (BSA), certain financial institutions must disclose suspected or known criminal activity in a "suspicious activity report" that is filed with the federal reserve bank and provided to law enforcement officials. While "suspicious activity" may include tampering with personal information, the BSA does not appear to require disclosure of such tampering to the subject of the personal information. Please contact me if you have further questions.

Christopher T. Sundberg
Legislative Attorney
Phone: (608) 266-9739
E-mail: christopher.sundberg@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2214/P1dn
CTS:jld:pg

March 15, 2005

Senator Kanavas:

This draft is based on LRB-1134, and includes revisions based on instructions received from your aide, Michael Richards. Please review it carefully to ensure it is consistent with your intent.

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Christopher T. Sundberg
Legislative Attorney
Phone: (608) 266-9739
E-mail: christopher.sundberg@legis.state.wi.us

Sundberg, Christopher

From: Richards, Mike
Sent: Tuesday, March 15, 2005 4:29 PM
To: Sundberg, Christopher
Cc: Bender, Jim
Subject: LRB 2214/1

Chris,

I have talked to Jim Bender in Rep. Fitzgerald's office and we feel that we want to take the language of the bill out on page 3, line 10-12.

Thanks,

MICHAEL D. RICHARDS
Office of State Senator Ted Kanavas
33rd Senate District
(608) 266-9174
Mike.Richards@legis.state.wi.us

3/15 Mike (kanavar)
1203 2214: redraft. eliminate
exception on p. 3 ll. 10-12. Also,
intent re: sub. (4) is as described
in /P1 d-note.

Sundberg, Christopher

From: Richards, Mike
Sent: Thursday, March 17, 2005 10:42 AM
To: Sundberg, Christopher
Subject: RE: LRB 2214/1

yes, and specify business days.

-----Original Message-----

From: Sundberg, Christopher
Sent: Thursday, March 17, 2005 10:35 AM
To: Richards, Mike
Subject: RE: LRB 2214/1

p. 3 line 14 change 30 to 15?

-----Original Message-----

From: Richards, Mike
Sent: Thursday, March 17, 2005 10:27 AM
To: Sundberg, Christopher
Cc: Bender, Jim
Subject: RE: LRB 2214/1

Chris,

Can we change the reporting time to 15 business days.

-----Original Message-----

From: Sundberg, Christopher
Sent: Tuesday, March 15, 2005 4:30 PM
To: Richards, Mike
Subject: RE: LRB 2214/1

OK, I'll take care of it.

-----Original Message-----

From: Richards, Mike
Sent: Tuesday, March 15, 2005 4:29 PM
To: Sundberg, Christopher
Cc: Bender, Jim
Subject: LRB 2214/1

Chris,

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Thanks,

MICHAEL D. RICHARDS
Office of State Senator Ted Kanavas
33rd Senate District
(608) 266-9174
Mike.Richards@legis.state.wi.us



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-2214/02
CTS:cmh&jld:pg

1 RMNR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

2005 BILL

In: 3/16/05

Due: soon

✓
INS
A

Regen

D-note

1 AN ACT to create 895.507 of the statutes, relating to: notice regarding
2 unauthorized acquisition of personal information.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 SECTION 1. 895.507 of the statutes is created to read:

4 895.507 Notice of unauthorized use of personal identifying
5 information. (1) DEFINITIONS. In this section:

6 (a) 1. "Entity" means a person, other than an individual, that does any of the
7 following:

8 a. Conducts business in this state and maintains personal information in the
9 ordinary course of business.

10 b. Stores personal information in this state.

1 c. Maintains for a resident of this state a depository account as defined in s.
2 815.18 (2) (e).

3 d. Lends money to a resident of this state.

4 2. "Entity" includes all of the following:

5 a. The state and any office, department, independent agency, authority,
6 institution, association, society, or other body in state government created or
7 authorized to be created by the constitution or any law, including the legislature and
8 the courts.

9 b. A city, village, town, or county.

10 (b) Except as provided in par. (c), "personal information" means any of the
11 following information, if the information is accompanied by the name of the
12 individual to whom the information pertains and is not publicly available:

13 1. An individual's electronic mail address.

14 2. Any of the information specified in s. 943.201 (1) (b) 4. to 15.

15 (c) "Publicly available information" means any information that an entity
16 reasonably believes is one of the following:

17 1. Information that is lawfully made widely available through any media.

18 2. Information that is lawfully made available to the general public from
19 federal, state, or local government records or disclosures to the general public that
20 are required to be made by federal, state, or local law.

21 (2) NOTICE REQUIRED. (a) If an entity whose principal place of business is
22 located in this state or an entity that stores personal information in this state knows
23 that personal information in the entity's possession has been obtained by a person
24 whom the entity has not authorized to obtain the personal information, the entity
25 shall make reasonable efforts to notify each individual who is the subject of the

1 personal information. The notice shall indicate that the entity knows of the
2 unauthorized use of personal information pertaining to the individual.

3 (b) If an entity whose principal place of business is not located in this state
4 knows that personal information pertaining to a resident of this state has been
5 obtained by a person whom the entity has not authorized to obtain the personal
6 information, the entity shall make reasonable efforts to notify each resident of this
7 state who is the subject of the personal information. The notice shall indicate that
8 the entity knows of the unauthorized use of personal information pertaining to the
9 individual.

10 (c) Notwithstanding pars. (a) and (b), an entity is not required to provide notice
11 to an individual of the unauthorized use of personal information relating to that
12 individual if the entity learns of the unauthorized use from that individual.

13 (3) TIMING AND MANNER OF NOTICE. (a) Subject to sub. (5), an entity shall provide
14 the notice required under sub. (2) within a reasonable time, not to exceed 30 days
15 after the entity learns of the acquisition of personal information. A determination
16 as to reasonableness under this paragraph shall include consideration of the number
17 of notices that an entity must provide and the methods of communication available
18 to the entity. 15 business ✓

19 (b) An entity shall provide the notice required under sub. (2) by mail or by a
20 method the entity has previously employed to communicate with the subject of the
21 ~~computerized~~ personal information. If an entity cannot with reasonable diligence
22 determine the mailing address of the subject of the personal information, and if the
23 entity has not previously communicated with the subject of the personal information,
24 the entity shall provide notice by a method reasonably calculated to provide actual
25 notice to the subject of the personal information.

1 (4) EFFECT ON CIVIL CLAIMS. Compliance with this section is not a defense to a
2 claim in a civil action or proceeding. Failure to comply with this section ^{is} does not

3 ~~constitute~~ negligence or a breach of any duty ~~under the law~~ ^{but may be evidence of negligence or} a breach of a legal ^{duty}

4 (5) REQUEST BY LAW ENFORCEMENT NOT TO NOTIFY. If a law enforcement agency
5 asks an entity not to provide a notice that is otherwise required under sub. (2) for any
6 period of time, the notification process required under sub. (2) [✓] shall begin at the end
7 of that time period.

8 (END)

2-note
↓

2005-2006 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2214/lins
CTS:.....

1

Insert A:

This bill requires an entity that possesses certain personal information about an individual to notify the individual when the information is accessed by a person who the individual has not authorized to do so (unauthorized access). The bill's notice requirements apply to entities, including the state and local governments, that do any of the following: conduct business in Wisconsin and maintain personal information in the ordinary course of business; store personal information in this state; maintain a depository account for a Wisconsin resident; or lend money to a Wisconsin resident.

Under the bill, personal information includes any of the following information about an individual, ~~when~~^{if} accompanied by the name of the individual to whom the information pertains: electronic mail address; driver's license number; social security number; employer or place of employment; mother's maiden name; depository account number and certain other financial information; deoxyribonucleic acid (DNA) profile; and any other information about an individual that can be associated with an individual through identifiers or other information. Personal information does not include information that is lawfully available to the public.

As to an entity whose principal place of business is located in Wisconsin or that stores personal information in Wisconsin, if the entity knows or has reason to know of an unauthorized access, the bill requires the entity to make reasonable efforts to notify the individual that is the subject of the personal information (subject) that the individual's personal information has been accessed. As to an entity whose principal place of business is not located in Wisconsin, if the entity knows or has reason to know of an unauthorized access involving information pertaining to a Wisconsin resident, the bill requires the entity to make reasonable efforts to notify the subject.

An entity required to notify a subject must, within 30 days after learning of the unauthorized access, inform the subject that the entity knows of the unauthorized use of personal information pertaining to the subject. The entity must deliver the notice by mail or by another method the entity has previously used to communicate with the subject. If the entity cannot reasonably determine the subject's mailing address, the entity may notify the subject by another means reasonably calculated to provide actual notice to the subject. Under the bill, if a law enforcement agency requests an entity to delay a required notice for any period of time, the entity must begin the notification process after the requested delay period.

The bill provides that compliance with the bill's requirements is not a defense to civil claims. A failure to comply is not negligence or a breach of a legal duty, but may be evidence of negligence or a breach of a legal duty.

For further information see the **state and local** fiscal estimate, which will be printed as an appendix to this bill.

(end ins A)

15
15 business

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2214/1dn

CTS:.....

jld

*, and it changes the deadline for
a required notice to 15 business
days*

Senator Kanavas:

This is a redraft of LRB-2214/P1. Please review it carefully to ensure it is consistent with your intent.

This draft eliminates the exception from the notification requirements for unauthorized accesses brought to an entity's attention by the subject of the personal information that was accessed. Also, your aide Michael Richards informed me that your intent regarding proposed sub. (4) is consistent with the interpretation in the drafter's note submitted with the previous version. In order to clarify the effect of an entity's failure to give notice, I have modified sub. (4). Is this okay? I have also made minor technical corrections that do not affect the substance of the draft.

Please contact me if you have any questions or if you would like to make any further changes.

Christopher T. Sundberg

Legislative Attorney

Phone: (608) 266-9739

E-mail: christopher.sundberg@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2214/1dn
CTS:jld:jf

March 21, 2005

Senator Kanavas:

This is a redraft of LRB-2214/P1. Please review it carefully to ensure it is consistent with your intent.

This draft eliminates the exception from the notification requirements for unauthorized accesses brought to an entity's attention by the subject of the personal information that was accessed, and it changes the deadline for a required notice to 15 business days. Also, your aide Michael Richards informed me that your intent regarding proposed sub. (4) is consistent with the interpretation in the drafter's note submitted with the previous version. In order to clarify the effect of an entity's failure to give notice, I have modified sub. (4). Is this okay? I have also made minor technical corrections that do not affect the substance of the draft.

Please contact me if you have any questions or if you would like to make any further changes.

Christopher T. Sundberg
Legislative Attorney
Phone: (608) 266-9739
E-mail: christopher.sundberg@legis.state.wi.us

Basford, Sarah

From: Richards, Mike
Sent: Wednesday, April 06, 2005 12:03 PM
To: LRB.Legal
Subject: Submitted: LRB 05-2214/1 Topic: Disclosure of data security breaches?body=

Can we get LRB 05-2214/1 jacketed for the senate? Thanks

Michael D. Richards

*Michael D. Richards
Office of State Senator Ted Kanavas
State Capitol, Room 10 South
Madison, WI 53707-7882
608-266-9174*

2005 - 2006 LEGISLATURE

2005 SENATE BILL 164

Corrected copy

LRB-2214/1
CTS:cmh&jld:jf

05-03-2005

April 8, 2005 - Introduced by Senators KANAVAS, STEPP, A. LASEE, DARLING, KEDZIE and OLSEN, cosponsored by Representatives J. FITZGERALD, GUNDRUM, DAVIS, NISCHKE, LOEFFELHOLZ, JENSEN, BIES, HINES, OTT, VRAKAS, BALLWEG, KLEEFISCH, OWENS, FREESE, HUNDERTMARK, MCCORMICK and CULLEN.

- entity
- 1 AN ACT to create 895.507 of the statutes; relating to: notice regarding
2 unauthorized acquisition of personal information.

Analysis by the Legislative Reference Bureau

This bill requires an entity that possesses certain personal information about an individual to notify the individual when the information is accessed by a person who the individual has not authorized to do so (unauthorized access). The bill's notice requirements apply to entities, including the state and local governments, that do any of the following: conduct business in Wisconsin and maintain personal information in the ordinary course of business; store personal information in this state; maintain a depository account for a Wisconsin resident; or lend money to a Wisconsin resident.

Under the bill, personal information includes any of the following information about an individual, if accompanied by the name of the individual to whom the information pertains: electronic mail address; driver's license number; social security number; employer or place of employment; mother's maiden name; depository account number and certain other financial information; deoxyribonucleic acid (DNA) profile; and any other information about an individual that can be associated with an individual through identifiers or other information. Personal information does not include information that is lawfully available to the public.

As to an entity whose principal place of business is located in Wisconsin or that stores personal information in Wisconsin, if the entity knows or has reason to know of an unauthorized access, the bill requires the entity to make reasonable efforts to